THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HONBLE DR.JUSTICE G.YETHIRAJULU

–

WRIT APPEAL NO. 1651 OF 2005.

DATED: 25-10-2005

Between

S.M.P.Singh son of late Ramanandan

Singh. Hindu, aged 55 yrs, r/o Central

Industrial Security Force, Quarter No.7/1

CISF Complex, NFC, ECIL Post, Hyderabad

….Appellant

And

The Senior Commandant, Central

Industrial Security Force, Ministry

Of Home Affairs, CISF Unit, NFC,

ECIL Post, Hyderabad

…Respondent

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JUDGMENT (Per Sri B.Prakash Rao, J)

Heard both sides and at their request, the main appeal itself is taken up for disposal.

The unsuccessful writ petitioner is the appellant herein, who seeks to assail the impugned order retiring him from service on invalidation as per Rule 38 of CCS (Pension) Rules, 1972, under the impugned order, dated 22-07-2004,

which was confirmed in further appeal by the order, dated 19-08-2004.

The main submission made on behalf of the appellant was that though he sought for the relief under the provisions of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995, however, having regard to the notification issued there under exempting the persons under Rule 38 (4) of the CCS Rules, he is entitled to be considered for lower post taking into consideration 50% disability by the competent authority and this aspect has not been considered either in the impugned order or by the learned single Judge.

Having considered the submissions made and on perusal of record, it is seen that the aforesaid Legislature Act has no application to the service of the appellant and further Rule 38 (4) of CCS Rules contemplates consideration of case for lower post depending upon the percentage of disability. The impugned order does not reflect any such consideration. Further, in view of the direction given by the learned single Judge permitting the appellant to make representation, it would suffice in the interest of justice to direct the respondent to consider the case of the appellant under Rule 38 (4) of CCS Rules as to whether he can be given a lower post or otherwise and pass orders in accordance with law.

Accordingly, the writ appeal is disposed of. No costs.

B.PRAKASH RAO, J

Dated: 25-10-2005.

G.YETHIRAJULU, J

Hsd

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